

**BEFORE THE**  
**Federal Communications Commission**

WASHINGTON, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
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Amendment to the Commission's ) WT Docket No. 95-157  
Rules Regarding a Plan for )  
Sharing the Costs of Microwave )  
Relocation )

To: The Commission

**COMMENTS OF**  
**THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT**  
**AND**  
**THE COUNTY OF LOS ANGELES, INTERNAL SERVICES DEPARTMENT**

The Los Angeles County Sheriff's Department and the County of Los Angeles, Internal Services Department (collectively referred to herein as "the County"), by its attorneys, hereby submits the following Comments in response to the Commission's Notice of Proposed Rulemaking, FCC 95-426 (released October 13, 1995), in the above-captioned proceeding.

The County of Los Angeles is the licensee of a 21 path 2 GHz microwave communications network that provides the backbone for the County's public safety mobile communications systems. The Los Angeles County Sheriff's Department is the principal user of that microwave network, which links its radio transmitter sites, stations and substations located throughout the County. The system carries all of the Sheriff's voice and mobile data dispatch communications. The microwave network is also a critical

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element of the communications systems used by the Los Angeles County Fire Department and other public safety agencies in the County. Therefore, the County's microwave system is absolutely essential to the safety of the over nine million people who reside in and travel through its borders on a daily basis.

The County has long opposed any requirement that it vacate its critical 2 GHz communications facilities. Nevertheless, the County recognizes that the Commission's rules require that it eventually move to other frequency bands. The current rules governing that relocation, while not perfect, provide for arms-length negotiations between the County and the PCS licensees in the Los Angeles MTA. The County strongly opposes any tampering with those rules at this time, other than the adoption of reasonable cost-sharing rules.

**A. Cost-sharing Rules Should Be Adopted**

The cost-sharing rules proposed by the Commission would be beneficial for the County and other similarly situated microwave incumbents. Most of the County's 21 microwave paths include transmit or receive frequencies that impact more than one PCS frequency block. Furthermore, the most appropriate engineering solution to the County's microwave system is to replace the entire network, rather than a piecemeal approach resulting from multiple negotiations with each PCS licensee. Therefore, the County supports rules to

facilitate its ability to reach a single agreement covering all of its microwave paths.

The County does not support, however, the proposed cap on reimbursements among microwave incumbents. Any cap would be purely arbitrary, and the proposed \$250,000 cap is less than the cost of replacing many urban microwave paths with appropriate replacement facilities. All of the PCS licensees that benefit from the relocation of an incumbent's microwave system should be required to pay their pro rata share of the full cost of that replacement, without regard to arbitrary caps.

**B. The Proposed Clarifications Should Be Rejected**

The County is far more concerned with the proposed "clarifications" to the Commission's relocation rules. In particular, the County objects to the Commission's proposed changes to the mandatory negotiation period, including arbitrary definitions of "good faith" negotiations and "comparable facilities."

The County is prepared to enter into negotiations and, if appropriate, reach a final agreement with PCS licensees during the voluntary period. Reaching an agreement at this time, however, will be an extremely difficult and time-consuming process due to the complexity of the County's microwave network, the sensitive nature of the public safety communications carried on the network, the unique geography of the County which complicates any County-wide communications system replacement, and the need for

approvals from multiple departments and levels within the County government. Unfortunately, these problems are made worse by the County's current budget crisis, making it very difficult to assign sufficient staff for this project.

In the event that the County is unable to reach an agreement during the current voluntary period, its rights and obligations should not change during the mandatory negotiation period. The County will negotiate at all times in good faith and work towards a solution that satisfies the needs of the citizens of Los Angeles as well as the PCS industry. That solution, however, should not be dictated by arbitrary Commission guidelines.

In particular, the fact that an incumbent does not accept a "comparable" system during the mandatory period should not be a sign of "bad faith" as suggested in the Notice. Rather, it is more likely a sign of a disagreement as to what is necessary to ensure that the incumbent's microwave network continues to provide state-of-the-art communications for its vital public safety systems. The Commission should stay out of that disagreement, at least until the end of the mandatory negotiation period.

The Commission's proposed arbitrary definition of "comparable facilities" excludes digital replacements for current analog networks. However, the County believes that whether or not a digital system is part of the replacement facilities paid for by the PCS licensees is best left to negotiation between the parties, regardless whether the

negotiations take place during the mandatory or the voluntary negotiation periods.

Microwave incumbents such as the County have an obligation to provide state-of-the-art communications facilities for their public safety agencies. Current analog systems were state-of-art at the time they were designed, and any "comparable" replacement system must be state-of-the-art by today's standards, which means digital in most cases.<sup>1/</sup> That is even more likely to be true in the future during the mandatory negotiation period as analog equipment becomes increasingly outdated. Therefore, for the Commission to suggest that only analog systems are comparable replacements during the mandatory period ignores reality and is a disservice to the communications needs of public safety agencies and other microwave incumbents.<sup>2/</sup>

The Commission is also attempting to tie one hand behind the back of incumbents by limiting their ability during the mandatory negotiation period to retain competent consultants, engineers and attorneys to assist them in the negotiation process. Many incumbents will require the

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<sup>1/</sup> Just as the PCS industry (and other telecommunications industries) are moving to digital technology, so too is the microwave industry.

<sup>2/</sup> The County will be upgrading its mobile radio systems to digital technology over the next ten years, in part to comply with the Commission's "spectrum refarming" initiative in PR Docket 92-235. Therefore, it would make little sense for the County to install an analog microwave backbone system at this time. The County lacks the funds, however, to install a digital system or to pay the difference between an analog and a digital replacement at this time.

assistance of outside experts similar to those used by the PCS industry itself in the negotiations. It is unreasonable to expect incumbents to confront the PCS industry in critical negotiations without competent representation.

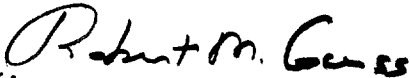
Yet, the Commission proposes that fees for outside experts retained by incumbents not be subject to reimbursement during the mandatory negotiation period, claiming that such fees are "premium payments." However, these are reasonable expenses directly related to the forced relocation of an incumbent's facilities and would not be incurred were it not for the PCS industry's desires to use the 2 GHz band. Any standard definition of "costs" would include fees for attorneys and other professionals. Therefore, PCS licensees, not incumbents, should assume those expenses as well as any other direct or indirect expense incurred by incumbents as part of the relocation process, regardless when final agreements are reached.

CONCLUSION

For the reasons discussed above, the County urges the Commission to reject the proposed changes to the microwave relocation rules.

Respectfully submitted,

LOS ANGELES COUNTY SHERIFF'S  
DEPARTMENT AND THE COUNTY OF LOS  
ANGELES, INTERNAL SERVICES  
DEPARTMENT

By: 

Robert M. Gurss  
WILKES, ARTIS, HEDRICK & LANE  
Chartered  
1666 K Street, N.W. #1100  
Washington, D.C. 20006  
(202) 457-7329

Its Attorneys

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